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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,869	03/08/2004	Marilyn Geninatti	PHLV0768-001	2671

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EXAMINER

SZUMNY, JONATHON A

ART UNIT	PAPER NUMBER
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3632

DATE MAILED: 12/08/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/796,869

Applicant(s)

GENINATTI, MARILYN

Examiner

Jon A Szumny

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-19 is/are allowed.
- 6) ☒ Claim(s) 1,4-8 and 10-13 is/are rejected.
- 7) ☒ Claim(s) 2,3 and 9 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 3/8/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

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This is the first office action for application number 10/796,869, Rock Climbing Machinery, filed on March 10, 2004.

Information Disclosure Statement

Receipt is acknowledged of PTO Form 892, Information Disclosure Statement, which has been reviewed by the Examiner.

Specification

In the abstract, line 1, "The invention is a" should be --A--.

Claim Objections

Claims 2, 8, 9 and 15 are objected to because of the following informalities:

In claims 2, 9 and 15, line 3, "than said" should be --than that of said--;

In claim 8, section G, line 3, "form" should be --from--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 5 and 11 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter that was not described in the specification in such a way as to reasonably convey to one skilled in the relevant

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art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

Regarding claims 5 and 11, the carabiner being made of aluminum was never discussed in the specification.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter that the applicant regards as his invention.

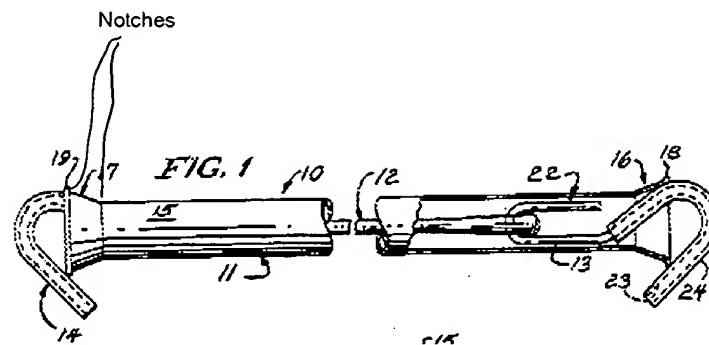
Claims 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The subject matter of claims 8-13 has been doubly included since the same subject matter is recited in claims 1, 2, 4, 5, 6 and 7, respectively.

Claim Rejections - 35 USC § 103

Claims 1, 4, 5, 7, 8, 10, 11 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 4,817,551 to Matson in view of U.S. Patent number 6,510,599 to AmRhein.



Matson '551 discloses a device (figure 1) comprising a tube (15) made of PVC plastic (column 2, lines 43-44), first and second hooking devices (13,14, left and right sides), and a band with first and second ends (12, left and right ends in figure 1), wherein the tube further comprises a shaft, a top and a bottom (left and right sides, respectively), wherein the top comprises a first pair of notches (above) arranged at opposite ends from each other (the left and right opposite ends of the top), wherein the band passes through the shaft such that the first end of the band is located near the top/left end of the tube and the second end of the band is located near the bottom/right end of the tube, wherein the first hooking device and second hooking devices are respectively fastened to the first and second ends of the band. However, Matson '551 fails to specifically teach the first and second hooking devices to be first and second carabiners, but does teach that the first and second hooking devices could be "snap hooks" (see column 3, lines 53-54).

AmRhein '599 reveals a well-known snap hook comprising an aluminum carabiner with a spring-loaded lever (column 1, lines 33-38, it is a snap hook because the spring in the lever causes the lever to snap back to its original position after being pivoted). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have replaced

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the first and second hooking devices of Matson '551 with first and second aluminum carabiners so as to provide for a more secure hooking of a mounting surface by preventing unwarranted disengagement from the mounting surface.

Further, Matson '551 in view of AmRhein '599 teach the previous invention failing to specifically reveal the first and second ends of the band to emerge from the top and bottom of the tube. However, Matson '551 does teach that the preload on the band 12 is "not so great as to make it difficult to withdraw the hook" from the tube (column 3, lines 25-27). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have stretched the band such that the first and second ends respectively emerge from the top and bottom of the tube so as to facilitate mounting of the carabiners onto the band. Further, an ordinary artisan would recognize that such would naturally be possible since the type of band being used is a "tarp strap" (column 2, line 47) in addition to the fact that it should not be difficult to withdraw the hooks/carabiners from the tube.

Claims 6 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent number 4,817,551 to Matson in view of AmRhein '599, and further in view of U.S. Patent number 6,776,317 to Parker.

Matson '551 in view of AmRhein '599 teach the previous invention failing to specifically divulge the band to be made of nylon. However, Parker '317 teaches that it is well known that nylon bands are used in the carabiner art (column 3, line 67 through column 4, line 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to have made the band of nylon since it is well known in the art as is taught by Parker '317 that nylon is a common and useful material for constructing elastic bands.

Allowable Subject Matter

Claims 14-19 are allowed.

Claims 2, 3 and 9 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 2 and 9, the prior art as respectively applied against claims 1 and 8 failed to further specifically teach the top of the tube to further comprise a second pair of notches arranged at opposite ends from each other, the second pair of notches being cut a depth greater than that of the first pair of notches.

Regarding claim 14, the prior art as applied against claim 1 failed to further specifically teach the step of cutting a second pair of notches into the top of the tube where the second pair of notches are arranged at opposite ends from each other.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Lowe '467, Fister '266, Besonen, Sr. et al. '753, Clark '669, Crone '731 and Brainerd et al. '834 teach various devices comprising tubes, bands and carabiners.

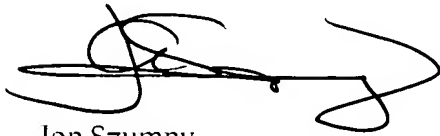
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jon A Szumny whose telephone number is (703) 306-3403. The examiner can normally be reached on Monday-Friday 8-4.

The fax phone number for the organization where this application and proceeding are assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is

(703) 308-1113.

A handwritten signature in black ink, appearing to read 'Jon Szumny', with a stylized flourish extending to the right.

Jon Szumny
Patent Examiner
Technology Center 3600
Art Unit 3632
December 6, 2004